

Department of the Air Force, DoD

§ 806.25

through the MAJCOM FOIA office for sending to the Secretary of the Air Force's designated appellate authority, SAF/GCA (and Air Force Legal Services Agency (AFLSA/JACL)). (See §§ 806.4(g), 806.5(b), and § 806.5(k).) Additional steps are required prior to sending an appeal file.

(1) MAJCOM FOIA offices and record OPRs are responsible for ensuring adequate preparation of the FOIA appeal package for reconsideration by the IDA. FOIA offices and records OPRs will coordinate with Air Force attorneys, who will provide written opinions on substantive issues raised in the appeal.

(2) If a requester appeals an Air Force "no records" determination, Air Force elements must search again or verify the adequacy of their first search. The package must include documents that show the Air Force element systematically tried to find responsive records. Tell, for example, what areas or offices were searched and how the search was conducted—manually, by computer, by telephone, and so forth. In the event a requester sues the Air Force to contest a determination that no responsive records exist, formal affidavits are required to support the adequacy of any searches conducted.

(3) FOIA requesters seeking to appeal denials involving Office of Personnel Management's controlled civilian personnel records must appeal to the Office of the General Counsel, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

(4) If a requester appeals a denial of a fee waiver, fee estimate, or fee reduction request, FOIA offices and record OPRs must account for actual and estimated costs of processing a request, and will include copies of the DD Forms 2086 or 2086-1 in the appeal package.

(5) When any appellate action sought by a FOIA requester is denied by an IDA, prepare the FOIA appeal package as specified in § 806.29, and then the MAJCOM FOIA office forwards the appeal file to the Secretary of the Air Force's designated appellate authority, SAF/GCA (through AFLSA/JACL), for a final administrative determination.

(b) Air Force activities will process appeal actions expeditiously to ensure

they reach the Office of the Secretary of the Air Force in a timely manner.

§ 806.22 Time limits.

Any FOIA appeals received after the 60-day time limit are not processed, unless the requester provides adequate justification for failing to comply with the time limit. If a late appeal is received, and there is no adequate justification for failing to comply with the time limit, the FOIA office will advise the FOIA requester their appeal has been closed. An example of a closure letter is included in § 806.27.

§ 806.23 Delay in responding to an appeal.

For an appeal in process and not yet forwarded to AFLSA/JACL, the MAJCOM FOIA office is responsible for advising the requester of the status of the appeal. For an appeal in process at AFLSA/JACL, that office will advise the requester regarding status of the appeal.

§ 806.24 Fee restrictions.

For FOIA purposes, Air Force activities will consider the cost of collecting a fee to be \$15 and will not assess requesters' fees for any amount less than \$15.

§ 806.25 Annual report.

(a) MAJCOM FOIA managers and AFLSA/JACL send a consolidated report for the fiscal year on DD Form 2564, Annual Report Freedom of Information Act, to HQ AFCIC/ITC by October 30 via regular mail, e-mail, or facsimile. AFLSA/JACL will prepare the appeals and litigation costs sections of the report. HQ AFCIC/ITC will make the Air Force report available on the WWW.

(b) Total requests processed. "Processed" includes responses that give an estimated cost for providing the records, even if the requester has not paid.

(c) Denied in full. Do not report "no record" responses as denials.

(d) Other reasons.

(1) *Referrals*. Also include referrals within Air Force in this category.

(2) *Not an agency record*. The "not an agency record" other reason category only applies to requests for: objects or